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OFFICE OF PETITIONS

In re Application of	:	
Kyle M. Hanson et al	:	
Application No. 09/872,151	:	DECISION DISMISSING PETITIONS
Filed: May 31, 2001	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 291958158US	:	

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed April 21, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

- (1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

The claim for benefit of priority to Application No. 10/158,220 is improper since the claim for benefit must be to a "prior-filed" application. Therefore, since the filing date of this application is May 31, 2001, it cannot claim the benefit of priority to "later-filed" Application No. 10/158,220. Additionally, a claim for benefit to provisional Application No. 60/294,690 is improper, since the present application was filed more than twelve months from the filing date of the provisional application.

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.


Further correspondence with respect to this matter should be addressed as follows:

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Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210.


Frances Hicks
Petitions Examiner
Office of Petitions